

106TH CONGRESS
2D SESSION

H. R. 5025

To amend title 46, United States Code, to require the adoption of response plans for nontank vessels.

IN THE HOUSE OF REPRESENTATIVES

JULY 27, 2000

Mr. DEFazio introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To amend title 46, United States Code, to require the adoption of response plans for nontank vessels.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Maritime Safety Act
5 of 2000”.

6 **SEC. 2. ESTABLISHMENT OF REQUIREMENT FOR RESPONSE**
7 **PLANS FOR NONTANK VESSELS.**

8 Subtitle II of title 46, United States Code, is
9 amended—

1 (1) in the analysis at the beginning of the sub-
 2 title, by adding after the item relating to chapter
 3 147 the following:

“48. Response plans for nontank vessels 4801”;

4 and

5 (2) by adding at the end of part B the fol-
 6 lowing:

7 **“CHAPTER 48—RESPONSE PLANS FOR**
 8 **NONTANK VESSELS**

“Sec.

“4801. Definitions.

“4802. Application.

“4803. General response plan requirement.

“4804. Regulations.

“4805. Submittal of response plans.

“4806. Review and approval of response plans.

9 **“§ 4801. Definitions**

10 “In this chapter:

11 “(1) The term ‘covered vessel’ means a vessel
 12 to which this chapter applies.

13 “(2) The term ‘maritime cooperative’ means
 14 any association established by any combination of
 15 owners or operators of marine terminals, marine fa-
 16 cilities, or vessels, vessel agents, or maritime indus-
 17 try groups, that provides oil spill response planning
 18 and oil spill-related communications services.

19 “(3) The term ‘response plan’ means a plan for
 20 the prevention of oil spills and the containment and

1 cleanup of oil spills from the navigable waters of the
2 United States and for the protection of fisheries and
3 wildlife, natural resources, and public and private
4 property from such a spill.

5 **“§ 4802. Application**

6 “This chapter applies to any vessel over 300 gross
7 tons carrying oil as fuel on the navigable waters of the
8 United States, other than—

9 “(1) a tank vessel; and

10 “(2) a fishing vessel.

11 **“§ 4803. General response plan requirement**

12 “(a) After June 1, 2001, a vessel subject to this chap-
13 ter may not operate on the navigable waters of the United
14 States unless a response plan for that operation has been
15 approved by the Secretary and implemented.

16 “(b) Approval of a response plan by the Secretary
17 under this section must be renewed at least once every
18 5 years.

19 **“§ 4804. Regulations**

20 “Not later than January 1, 2003, the Secretary shall
21 issue regulations establishing the minimum requirements
22 for approval of response plans required under this chapter.
23 The regulations shall require that each such response
24 plan—

1 “(1) include complete details concerning the re-
2 sponse to oil spills of various sizes from vessels to
3 which the plan applies;

4 “(2) to the maximum extent practicable, be de-
5 signed in terms of personnel, materials, and equip-
6 ment, necessary to remove oil and minimize any
7 damage to the environment resulting from a max-
8 imum probable spill and a worse case spill;

9 “(3) describe how the response plan relates to
10 and is coordinated with contingency plans developed
11 by a State, cooperative, port, or regional entity;

12 “(4) provide procedures for early detection of
13 an oil spill and timely notification of appropriate
14 Federal, State, and local authorities about the spill
15 in accordance with applicable State and Federal law;

16 “(5) demonstrate ownership of or access to an
17 emergency response communications network that—

18 “(A) covers all locations of operation or
19 transit by the vessel to which the response plan
20 applies; and

21 “(B) provides for immediate notification
22 and continual emergency communications dur-
23 ing cleanup response;

1 “(6) state the number, training preparedness,
2 and fitness of all dedicated, prepositioned personnel
3 assigned to implement the plan;

4 “(7) incorporate periodic training and drill pro-
5 grams to evaluate whether the personnel and equip-
6 ment provided under the plan are in a state of oper-
7 ational readiness at all times;

8 “(8) state the means of protecting and miti-
9 gating the effects of an oil spill on the environment;

10 “(9) provide a detailed description of equip-
11 ment, training, and procedures to be used by the
12 crew of a vessel to minimize vessel damage, and to
13 stop or reduce oil spilling from the vessel;

14 “(10) provide arrangements for prepositioning
15 oil spill containment and cleanup equipment and
16 trained personnel;

17 “(11) provide arrangements for enlisting the
18 use of qualified and trained cleanup personnel to im-
19 plement the plan;

20 “(12) provide for the disposal of recovered oil
21 in accordance with local, State, and Federal law;

22 “(13) state the measures that have been taken
23 to reduce the likelihood that an oil spill will occur;
24 and

1 “(14) state the amount and type of equipment
2 available to respond to a spill, where the equipment
3 is located, and the extent to which other response
4 plans rely on the same equipment.

5 **“§ 4805. Submittal of response plans**

6 “(a) A response plan under this chapter shall be sub-
7 mitted to the Secretary for each vessel to which this chap-
8 ter applies, within 12 months after the Secretary pre-
9 scribes regulations under this chapter.

10 “(b) A response plan under this chapter for oper-
11 ations of a vessel may be submitted by—

12 “(1) the owner or operator of the vessel, includ-
13 ing a person authorized to submit a plan under a
14 contract with the owner or operator pursuant to sub-
15 section (c);

16 “(2) the owner or operator of any facility at
17 which the vessel will be loading or unloading its
18 cargo; or

19 “(3) a qualified maritime cooperative in which
20 the owner or operator of the vessel is a participating
21 member.

22 “(c)(1) A person that has contracted with the owner
23 or operator of a vessel to provide containment and cleanup
24 services for operations of the vessel and that meets the
25 standards prescribed by the Secretary under this chapter

1 may submit the response plan required under this chapter
 2 for those operations.

3 “(2) Subject to conditions imposed by the Secretary,
 4 a person referred to in paragraph (1) may submit a single
 5 plan under this chapter for more than one vessel with re-
 6 spect to which the person is contractually obligated to pro-
 7 vide containment and cleanup services.

8 “(d)(1) A maritime cooperative may submit a re-
 9 sponse plan under this chapter for a group of vessels
 10 owned or operated by members of the cooperative.

11 “(2) A maritime cooperative shall have a lien on a
 12 vessel owned or operated by a member of the
 13 cooperative—

14 “(A) for any regular operating assessments
 15 made by the cooperative with respect to the vessel;
 16 and

17 “(B) for any direct costs incurred by the coop-
 18 erative in providing oil spill response or oil spill-re-
 19 lated communications services for the vessel.

20 **“§ 4806. Review and approval of response plans**

21 “(a) In reviewing a response plan submitted under
 22 this chapter, the Secretary shall consider, among other
 23 matters, the following factors:

24 “(1) The adequacy of containment and cleanup
 25 equipment, personnel, communications equipment,

1 notification procedures, response time, and logistical
2 arrangements for coordination and implementation
3 of response efforts to remove oil spills promptly and
4 properly and to protect the environment.

5 “(2) The nature and amount of vessel traffic
6 within the area covered by the plan.

7 “(3) The volume and type of oil being trans-
8 ported within the area covered by the plan.

9 “(4) The existence of navigational hazards
10 within the area covered by the plan.

11 “(5) The history and circumstances sur-
12 rounding prior spills of oil within the area covered
13 by the plan.

14 “(6) The sensitivity of fisheries and wildlife and
15 other natural resources within the area covered by
16 the plan.

17 “(7) Relevant information on previous spills
18 contained in on-scene coordinator reports covered by
19 the plan.

20 “(8) The extent to which reasonable, cost-effec-
21 tive measures to reduce the likelihood that a spill
22 will occur have been incorporated into the plan.

23 “(9) The number of covered vessels calling in
24 and the facilities located in the geographic area and
25 the resulting ability of State and local agencies and

1 industry groups to develop, finance, and maintain a
2 response plan and spill response system for those
3 vessels.

4 “(10) The spill response equipment and re-
5 sources available to a person providing a response
6 plan for vessels under the response plans filed by the
7 person under State or Federal law for other covered
8 vessels or facilities owned or operated by that per-
9 son.

10 “(b) The Secretary may approve a response plan only
11 if the Secretary determines that the plan—

12 “(1) meets the requirements established under
13 section 4804 of this title; and

14 “(2) will ensure, to the maximum extent prac-
15 ticable, removal of oil promptly, properly, and with
16 minimal damage to the environment.

17 “(c) On approval of a response plan, the Secretary
18 shall issue to the person that submitted the plan a certifi-
19 cate stating that the plan has been approved. The certifi-
20 cate shall include the name of each vessel for which the
21 certificate is issued, the effective date of the plan, and the
22 date by which the plan must be submitted for renewal.

23 “(d) An owner or operator of a covered vessel or facil-
24 ity shall notify the Secretary in writing immediately of any
25 significant change affecting any response plan approved

1 for the vessel or facility under this chapter, including
2 changes in any factor set forth in this section or regula-
3 tions prescribed under this section. The Secretary may re-
4 quire the owner or operator to update a response plan as
5 a result of these changes.

6 “(e) A holder of an approved response plan shall not
7 be considered to have violated the terms of the response
8 plan by furnishing to another person having a response
9 plan approved under this chapter, after notifying the Sec-
10 retary, equipment, materials or personnel to assist the
11 other person in a response to an oil discharge.

12 “(f) The Secretary may impose any reasonable term
13 or condition on approval or modification of a response plan
14 under this chapter that the Secretary determines is nec-
15 essary to ensure that the applicant—

16 “(1) has access to sufficient resources to pro-
17 tect environmentally sensitive areas and to prevent,
18 contain, clean up and mitigate potential oil dis-
19 charges from the vessel to which the plan applies;

20 “(2) maintains personnel levels sufficient to
21 carry out emergency operations; and

22 “(3) complies with the response plan.

23 “(g) The Secretary may not approve or renew a re-
24 sponse plan under this chapter unless the plan ensures

1 the use by the applicant of the best technology available
2 at the time the response plan was submitted or renewed.

3 “(h) The Secretary may require an applicant or a
4 holder of an approved response plan to take steps nec-
5 essary to demonstrate its ability to carry out the response
6 plan, including—

7 “(1) periodic training;

8 “(2) response team exercises; and

9 “(3) verification of access to inventories of
10 equipment, supplies, and personnel identified as
11 available in the response plan.

12 “(i)(1) The Secretary may delegate to a State the au-
13 thority to approve response plans under this chapter for
14 vessel operations in that State, to the extent that the laws
15 of the State establish response plan requirements that are
16 substantially similar to requirements established by the
17 Secretary under section 4804 of this title.

18 “(2) This subsection does not authorize the Secretary
19 to delegate to a State the authority to regulate vessel de-
20 sign, construction, equipment, manning, training, or oper-
21 ational requirements.

22 “(j) The approval of a response plan by the Secretary
23 does not constitute an express assurance regarding the
24 adequacy of the plan or constitute a defense to liability
25 imposed under Federal or State law.”.

1 **SEC. 3. LIMITS OF LIABILITY AND CERTIFICATES OF FINAN-**
2 **CIAL RESPONSIBILITY FOR NONTANK VES-**
3 **SELS.**

4 Section 1004 of the Oil Pollution Act of 1990 (33
5 U.S.C. 2703) is amended—

6 (1) by striking “\$600” and inserting “\$806”;

7 and

8 (2) by striking “\$500,000” and inserting
9 “\$672,000”.

10 **SEC. 4. VOYAGE DATA RECORDERS.**

11 Section 3305 of title 46, United States Code, is
12 amended by adding at the end the following:

13 “(d)(1) A passenger vessel, small passenger vessel,
14 and freight vessel (including a foreign vessel) to which this
15 paragraph applies shall be equipped with a voyage data
16 recorder of a type prescribed by the Secretary. In pre-
17 scribing the type of voyage data recorder for a vessel, the
18 Secretary shall consider the type, size, and characteristics
19 of the vessel.

20 “(2) Paragraph (1) of this subsection applies as fol-
21 lows:

22 “(A) To any small passenger vessel certified by
23 the Secretary to carry more than 100 passengers, a
24 high speed commercial vessel, or a passenger vessel
25 built after June 30, 2002.

1 “(B) On and after June 30, 2002, to any roll-
2 on-roll-off passenger vessel on an international voy-
3 age (including a voyage-to-nowhere), if the vessel
4 was built before July 1, 2000.

5 “(C) On and after January 1, 2004, to any
6 passenger vessel or small passenger vessel on an
7 international voyage (including a voyage-to-no-
8 where), if the vessel was built before July 1, 2002.

9 “(D) On and after January 1, 2004, to any
10 freight vessel of 20,000 or more gross tons, if the
11 vessel was built after June 30, 2002.

12 “(E) On and after January 1, 2006, to any
13 freight vessel of 3,000 or more gross tons and less
14 than 20,000 gross tons, if the vessel was built after
15 June 30, 2002.

16 “(F) On and after January 1, 2007, to any
17 freight vessel of 20,000 or more gross tons on an
18 international voyage (including a voyage-to-no-
19 where), if the vessel was built before July 1, 2002.

20 “(G) On and after January 1, 2009, to any
21 freight vessel of 3,000 or more gross tons and less
22 than 20,000 gross tons, on an international voyage
23 (including a voyage-to-nowhere), if the vessel was
24 built before July 1, 2002.”.

1 **SEC. 5. INVESTIGATIONS OF CASUALTY RESPONSE.**

2 Section 6301 of title 46, United States Code, is
3 amended—

4 (1) by inserting “, and responses to those cas-
5 ualties,” after “marine casualties”; and

6 (2) in paragraph (6) by inserting “or improve
7 the response to future casualties” after “recurrence
8 of the casualty”.

9 **SEC. 6. AUTOMATED INFORMATION SYSTEM.**

10 (a) **TRANSPONDER REQUIREMENT.**—

11 (1) **IN GENERAL.**—Subject to paragraph (2),
12 the following vessels, while operating on the navi-
13 gable waters of the United States, shall be equipped
14 with a position indicating transponder and an appro-
15 priate situation display or other device suitable for
16 accessing information made available by the trans-
17 ponder system, in accordance with regulations pre-
18 scribed by the Secretary of Transportation:

19 (A) Vessels subject to Public Law 92–63.

20 (B) Small passenger vessels carrying more
21 than a number of passengers determined by the
22 Secretary of Transportation.

23 (C) Towing vessels while towing astern or
24 pushing ahead or alongside, except commercial
25 assistance towing vessels rendering assistance
26 to disabled small vessels.

1 (2) EXEMPTION.—The Secretary may exempt a
2 vessel from paragraph (1) if the Secretary finds that
3 a transponder is not necessary for the safe naviga-
4 tion of the vessel on the waters on which the vessel
5 operates.

6 (b) REGULATIONS.—The Secretary of Transportation
7 shall issue regulations implementing subsection (a), in-
8 cluding requirements for the operation and maintenance
9 of transponders required under subsection (a).

10 (c) APPLICATION.—Subsection (a) shall apply as fol-
11 lows:

12 (1) On and after July 1, 2002, to—

13 (A) vessels built after that date; and

14 (B) vessels operating within the geographic
15 boundaries of a Vessel Traffic Service.

16 (2) On and after July 1, 2003, to—

17 (A) passenger vessels;

18 (B) tankers; and

19 (C) towing vessels engaged in moving a
20 tank vessel.

21 (3) On and after July 1, 2005, to all other ves-
22 sels.

1 **SEC. 7. AUTHORITY TO PROHIBIT LOADING AND UNLOAD-**
2 **ING OF VESSELS.**

3 (a) PROHIBITION.—The Port and Waterways Safety
4 Act (33 U.S.C. 1221 et seq.) is amended by adding at
5 the end the following:

6 **“SEC. 15. AUTHORITY TO PROHIBIT LOADING AND UNLOAD-**
7 **ING OF VESSELS.**

8 “The Secretary may prohibit the loading or unloading
9 of a vessel in any port or place subject to the jurisdiction
10 of the United States if the vessel is registered in a country
11 that the Secretary finds fails to adequately enforce safety
12 standards prescribed by the International Maritime Orga-
13 nization.”.

14 (b) REVIEW.—Within one year after the date of en-
15 actment of this Act, the Secretary shall—

16 (1) determine the 5 countries having the great-
17 est number of vessels registered in the country that
18 were detained by the Coast Guard in 1999 for viola-
19 tion of a safety standard prescribed by the Inter-
20 national Maritime Organization; and

21 (2) review and report to the Congress regarding
22 whether those countries have, since December 31,
23 1999, adequately enforced safety standards pre-
24 scribed by such organization.

25 (c) INNOCENT PASSAGE AND TRANSIT NOT AF-
26 FECTED.—Nothing in this section is intended to prevent

1 entry into waters subject to the jurisdiction of the United
2 States by a vessel under an international agreement to
3 which the United States is a party.

4 **SEC. 8. ELIMINATION OF SINGLE HULLS OVER BUNKER**
5 **TANKS.**

6 The Secretary of Transportation shall propose to and
7 seek to negotiate at the International Maritime Organiza-
8 tion the elimination of single hull bunker tanks on com-
9 mercial vessels capable of carrying more than 1,000 bar-
10 rels of fuel on board. The proposal shall include—

11 (1) a requirement prohibiting the operation of
12 any such vessel built after January 1, 2004, that
13 has a single hull bunker tank; and

14 (2) a phaseout schedule for such vessels built
15 before that date that have a single hull bunker tank.

○